

COUNCIL MEETING

OCTOBER 24, 2012

The Council Meeting of the Council of the County of Kaua'i was called to order by the Council Chair at the Council Chambers, 4396 Rice Street, Room 201, Lihu'e, Kaua'i, on Wednesday, October 24, 2012 at 9:15 a.m., after which the following members answered the call of the roll:

Honorable Dickie Chang
Honorable KipuKai Kuali'i
Honorable Nadine K. Nakamura
Honorable Mel Rapozo
Honorable JoAnn A. Yukimura
Honorable Jay Furfaro

Excused: Honorable Tim Bynum

Chair Furfaro: Please note that I have an excuse notice from Councilmember Bynum who is ill today and is now excused from the meeting.

APPROVAL OF AGENDA.

Mr. Chang moved for approval of the agenda as circulated, seconded by Mr. Rapozo, and unanimously carried.

MINUTES of the following meetings of the Council:

Special Council Meeting of March 7, 2012
Council Workshop of September 24, 2012
Council Meeting of September 26, 2012

Mr. Rapozo moved to approve the Minutes as circulated, seconded by Mr. Chang, and unanimously carried.

Chair Furfaro: Before we go to the Consent Calendar, I would like to take a moment of Personal Privilege. First of all, I want to make note of the passing of a very good friend of Kaua'i, of all of us, Sharon Pomroy. Many of you know that she was a candidate for the Office of Hawaiian Affairs for our island. She has passed on. I want to make note she has been a very big contributor in our community and the Hawaiian culture. She served as the Assistant *po'o* (Head) to the Burial Council here on Kaua'i and I would like to just take a moment of silence for your own offerings, please.

(Moment of silence.)

Chair Furfaro: Thank you very much. I would also like to ask that we recognize in our prayers Mr. Charlie Iona, from our Police Commission, who has suffered a heart attack and has been medivacked to Honolulu. Please keep him in your prayers. I will also reserve a Resolution (sic. Certificate) that JoAnn and I will be introducing after talking to Horace Stossel's wife yesterday. Just prior in November to his private service, we will be introducing a Resolution

(sic. Certificate) after having some discussion with Mrs. Stossel. We would like to keep all of these people in our prayers. Thank you very much. Mr. Chang.

Mr. Chang: I just want to say that thank you for bringing up and mentioning those three (3) names here. You know, what we do is a very tough job, but there is more to life than politics or anything else. I had the opportunity, something told me to turn and go to the hospital yesterday to go see Sharon. I have a videotape of Sharon, which the family requested. Interestingly, it was during the Superferry and what Sharon was mentioning is win, lose, or draw, whatever your thoughts were of the Superferry. There were a lot of kids jumping in front of the ferry itself and Sharon was trying to warn the parents, it was their responsibility. The kids jump in the water and they are underaged and it is a Felony B. The parents can be the ones that can get arrested. She used the term "da-dun-da-dun" that we need to think before we react. I actually got to the hospital about an hour after she passed away. I also did get a phone call from Charlie Tona when he was at Queens Hospital. He called me and I was very honored and as we all know he is going through a surgery this morning. So I want to thank the Chair for making mention and of course to Horace Stossel and to his wife Phyllis and everybody else. Maybe it is time for all of us to realize there is much more to life than what goes on in these Chambers. Thank you, Mr. Chairman.

Chair Furfaro: Thank you, Mr. Chang. While we are still on this moment of Personal Privilege, is there any more that anybody would like to say before I close this Personal Privilege and ask that we all keep these individuals and our community in our prayers. Thank you. Mr. Clerk, on that note, I would like to go to the Consent Calendar. On the Consent Calendar, we have three (3) items. Obviously, at the same time, our policy is you may speak on the Consent Calendar items or any items on the agenda today. You will be given up to three (3) minutes, and it is our guideline that no interaction occurs during this time for the Consent Calendar. But is there anyone in the audience that wishes to speak on any item this morning? Mr. Mickens.

There being no objections, the rules were suspended.

GLENN MICKENS: Thank you, Jay. Good morning Councilmembers. For the record, Glenn Mickens and I thank you, Jay, for the privilege of being able to speak. I have a short testimony here regarding the Teen Court Program. You have copies? I would like the viewing public to be able to see this copy. Let me read it. The Teen Court Diversionary Program has been in effect and used by the Office of the Prosecuting Attorney for a good many years. However, recently the State Office of Youth Services (O.Y.S.) directed the Office of the Prosecuting Attorney (O.P.A.) to suspend its use of the Program as it appeared that there may be a procurement law problem, and as of now I still have not been able to find out what that problem is. It is in place, I presume with O.Y.S., but we have not heard back from O.Y.S. At the last Council Meeting, a Councilmember interrogated the Prosecuting Attorney intensively and dwelled on how sad it is for the harm we are doing to the youths with the program stoppage and suggesting that it is the O.P.A. that is somehow responsible. This line of questioning was pursued despite testimony that there was, in fact, no procurement problem. Councilmember Rapozo and a good number of the public noted that over the years hundreds of grants such as Teen Court have come before the Council and none of them have ever been subject to the twenty (20) or so hours that have been devoted to discussing the O.P.A. Diversion Program this year. Councilmember Kualii also commented that the minutes of the meeting will reflect that only two (2) Councilmembers have

extended, what should have been a brief consideration, unnecessarily. It is of serious concern to hear the false claims that O.P.A. was the culprit in halting the Teen Court Program as they had absolutely nothing to gain by its suspension, but would potentially have liability for continuing it while they were advised by legal problems. Examination of the legal propriety of the Program may well be justified, but trying to unjustifiably blame the O.P.A. for what appeared to be completely political reasons is a misuse of the process. I have had phone calls from several people that I did not even know saying that they have been watching this very closely as it transpired and they say it is nothing but a witch-hunt and cannot believe that this Council has spent that many hours on this particular thing. As Mel and a lot of people have said, "You rubberstamp hundreds and hundreds of grants for Federal, State, local grants for far, far more money than this \$35,000.00 Program. So, it is just hard to believe that we will continue on this course, but I hope it is rectified. Thank you, Jay.

Chair Furfaro: Thank you very much.

Ms. Yukimura: I have a question.

Chair Furfaro: There are no questions during this period. But I want to make a statement on behalf of the Council because I was not available last week and I want to make sure that we understand that we have a money bill coming up to allocate money for Teen Court. It is on today's agenda. That is one of the items that we are allowing to be spoken on. That money will be in the form of an overview by the Administration. It is still for discussion of what kind of direction is available for Diversion Programs by the Charter, by various Divisions. But more importantly, the Charter under Section 3.10, directs this Council be the body that is responsible for allocating money and allocating Legislation. The oversight and the running of these projects come under the Administration. And should I have been here last week, I would want to make sure that we are all targeted with our rules. Now whatever legal outcomes come in the future, that is between the Council body and the County Attorney. But for all intents and purposes, what is on the agenda today is a money bill allocating money to the Mayor's Administration for grants that they can grant to Hale 'Opio or Teen Court Programs. Secondly, I want to make sure that we do understand that the issue is not about money. The issue is about diverting people back to Teen Court. And from what I gathered after watching the dialogue, I heard from the Prosecutor's Office and I think it was printed by The Garden Island, that they understand we need to do referrals for the young people in our Office to places like Hale 'Opio and I hope that is the intent. Anyone else wishing to speak on the Consent Calendar? Or on any other item today? If not, very good. We will call the meeting back to the next agenda item.

CONSENT CALENDAR:

C 2012-408 Communication (10/05/2012) from the Budget and Purchasing Director, transmitting for Council consideration, amendments to Ordinance No. B-2012-736, as amended, relating to the Fiscal Year 2012-2013 Operating Budget and Ordinance No. B-2012-737, as amended, relating to the Fiscal Year 2012-2013 Capital Budget to reduce the Capital Improvement Projects (CIP) funding level for 3 (3) FEMA eligible projects due to the recent approval of FEMA reimbursements: Mr. Rapozo moved to receive C 2012-408 for the record, seconded by Mr. Chang, and unanimously carried.

C 2012-409 Communication (10/12/2012) from Council Chair Furfaro, transmitting for Council consideration a proposed Ordinance Amending Ordinance No. B-2012-736, as amended, relating to the Fiscal Year 2012-2013 Operating Budget, to provide a \$31,000.00 grant administered by the Office of the Mayor for the Teen Court Program: Mr. Rapozo moved to receive C 2012-409 for the record, seconded by Mr. Chang, and unanimously carried.

C 2012-410 Communication (10/18/2012) from Council Chair Furfaro, transmitting for Council consideration, A Proposed Bill For An Ordinance Relating to General Provisions Relating to Finance, Establishing a Reserve Fund and a Reserve Fund Policy: Mr. Rapozo moved to receive C 2012-410 for the record, seconded by Mr. Chang, and unanimously carried.

There being no objections, the meeting recessed at 9:28 a.m.

The meeting reconvened at 9:29 a.m., and proceeded as follows:

COMMUNICATIONS:

C 2012-411 Communication (09/24/2012) from Council Chair Furfaro, requesting the presence of the County Engineer to provide an update to the Council on the status of the Kapaia Swinging Bridge repairs. This briefing should include but not be limited to, permitting issues and conditions placed on the County by the State Historic Preservation Division: Mr. Rapozo moved to receive C 2012-411, seconded by Mr. Chang.

Chair Furfaro: Gentlemen, I am going to let you introduce yourself and then I will give a brief overview.

There being no objections, the rules were suspended.

LYLE TABATA, Deputy County Engineer: Chair, Vice Chair, members of the Council, Lyle Tabata, Deputy County Engineer, Public Works.

MAUNA KEA TRASK, Deputy County Attorney: Aloha Chair, Councilmembers, Deputy County Attorney, Mauna Kea Trask.

Chair Furfaro: I want to make sure we understand that I am exercising my privileges as the Chairman of the Council to get an update. I want to go back and indicate to you that it is my understanding the last time we got an update was September of last year. During that time, there was and still reflected in the County Budget for the Kapaia Swinging Bridge, approximately an \$111,000.00 balance. At that September preview given to us, we were advised that the preliminary work on the bridge, would in fact restore the two (2) towers, would cost between \$80,000.00 and \$110,000.00. And a consultant was retained for the purpose of the engineering requirements, in compliance with any Americans with Disabilities Act (A.D.A.) or historic requirements, and we have not received an update since then. So this is our opportunity on this Capital Improvement Plan (C.I.P.) project that was approved. You have the floor.

Mr. Tabata: Thank you. Larry Dill is out-of-state with the Mayor so I am here to update the Council on the subject item. As you all know, in March we had the storms that effectively changed the whole game plan of the restoration of this bridge. Since that has happened, we have been doing due

diligence retracing back to the Engineering Firm, which we used to do the original design, and they have come up with a couple of proposals for us to move forward. During that period of due diligence, we also identified more damage, which is very evident, just from viewing. Our estimates caused us to look for more funding opportunities. So hence, we have sat down with the Hawai'i Department of Transportation and looked at opportunities for funding. In particular, we are looking at using the Transportation Enhancement Fund Program, so these will force us though; however, to get on the Statewide Transportation Improvement Program (S.T.I.P.). The discussions, preliminarily, looked very good so we are continuing our discussions with our Local District Manager. At this time, I do not have anything more to report. However, with regard to permitting the State Historic Preservation Division (S.H.P.D.), when the final designs for this repair are completed, the designs will be submitted to these Agencies for review, as well as Dependent Care Assistance Program (D.C.A.P.).

Chair Furfaro: I am going to reference our September 7, 2011 Minutes. The scope was to replace many of the rotten wooden pieces for the bridge tower portion only and establish strengthening and gracing the tower sections from the concrete piers. We had set aside, as I mentioned to you, \$113,000.00. It was reported by Mr. Dill that there could be added costs of the scope of repair. At this point, the estimates are between \$80,000.00 and \$100,000.00. That is in the minutes from Mr. Dill for the strengthening of the tower. It has been a year and could you give us an indication of what the potential request would be for more money after the flood so that we know if we, in fact, fail with S.T.I.P. money, we know roughly how much the additional costs is to the mission that we approved in the C.I.P.?

Mr. Tabata: I guess with going towards getting the Federal Funds assistance, the whole complexion of this project has changed. So with this, we will have to meet the requirements for access so that will include now, the land acquisition costs. As I stated earlier, we are still working out the development of this project with the D.O.T. I cannot answer what these costs are anticipated at this time. However, we do have the original estimate from the original Kahewai Study which was approximately \$5 million.

Chair Furfaro: \$5 million for that bridge? Do you really want me to believe \$5 million?

Mr. Tabata: The land acquisition costs is included in that.

Chair Furfaro: You did not say land. You said the original number for the bridge and you threw out \$5 million.

Mr. Tabata: Which includes the land acquisition costs.

Chair Furfaro: Thank you for expanding because I do not think that was a \$5 million bridge. I would be riding horses over it if it was.

Mr. Tabata: And in addition the State will require us to connect to their system on Kūhiō Highway.

Chair Furfaro: That is if we use the bridge as an actual transportation piece and I want to make sure that we have two (2) trains of thought here. We have the scope to use it for transportation, crossing the river between the

subdivision, the hospital, and so forth and the possibility of improving public safety instead of walking on the narrow bridge. The other part of the scope that we have is just to restore the bridge for its historic value. You can shake your head JoAnn, but let me finish my question. What avenue are you pursuing? Which way are we going?

Mr. Tabata: We are in discussion with H.D.O.T. and if we are going to use S.T.I.P. funds, it will have to be transportation.

Chair Furfaro: That is understood. Let me ask you, can JoAnn be invited to that meeting since she is our Committee Chairwoman of Transportation?

Mr. Tabata: Yes.

Chair Furfaro: Very good. I am sorry to have used my baritone voice, but we need real clarity, because it has been one year and one month and we are not getting this back and forth communication, which does not serve anybody's purpose. But if you can tell me that when you have that meeting with S.T.I.P., our Committee Chairperson and even the Vice Chair of Transportation will be included, I would feel more comfortable and then depend on her to be giving us feedback at the Council.

Mr. Rapozo: Just to clarify, this goes back to 2006, Mr. Chair, when we first...

Chair Furfaro: I did not say how far it went back, I said the last minutes I have was a year ago.

Mr. Rapozo: Just for the public's understanding in 2006 the Council appropriated \$240,000.00 to restore that bridge and now it is six (6) years. Lyle, has the debris been cleared?

Mr. Tabata: The debris as far as?

Mr. Rapozo: After the storm?

Mr. Tabata: No.

Mr. Rapozo: And back in April, we were told, the public was told that, in fact, based on the transcripts you guys had gotten the clearance after the consultant was here and that you would schedule the removal of the debris with your road crew. So that has not been done yet?

Mr. Tabata: We were cautioned that the area where the debris lies is not our area of responsibility, it is the Department of Land and Natural Resources (D.L.N.R.).

Mr. Rapozo: So we are not going to clear the debris?

Mr. Tabata: Yes, we are not.

Mr. Rapozo: So that is D.L.N.R.? Okay. Mr. Chair, if we could get staff to send a letter to D.L.N.R. asking them to expedite the clearing of that debris.

Chair Furfaro: We can do that but I want to make sure we are very clear. My reference was to the last time we got a presentation from the Administration on the repair work going for the bridge. In all fairness to the Administration, I want to say in June we got a report as it related to islandwide damage, which the bridge was included in that summary.

Mr. Tabata: We attempted to get it funded through the Federal Emergency Management Agency (F.E.M.A.) and it was denied.

Chair Furfaro: But until now, I want to make sure we are clear in the critical path here. In June, you did give us a report and it was denied by F.E.M.A. Now, I think in answering Mr. Rapozo's question, Mr. Trask, I will recognize you. So he is asking about removal of debris and getting report from F.E.M.A. as it relates to this action and the concerns about us encroaching on property that was not ours.

Mr. Trask: I just want to correct the record. Chair, as you know, you did receive back in May of this year and subsequently did not agree with or were not happy with D.L.N.R.'s determination that actually the...it appears a portion of Hanamā'ulu Stream and this is a D.L.N.R. letter from Russell Suji to you, where the incident occurred is privately owned, not State land. So we got the information from D.L.N.R. However, for clarity of the record it was actually private property-owned according to our research of the T.M.K.'s, it was the two (2) private property owners, Hā'ili Moe and Kapaia Hillside. Those were on private property and D.L.N.R. relayed the message to Chair.

Chair Furfaro: I remember that, although I said June. It might have been May. In all fairness, we did get that communication.

Mr. Trask: Then also, it is our understanding at this point that the damage to Kapaia Swinging Bridge according to John Young, will not qualify for F.E.M.A. funding due to the facts and circumstances over the past couple years. That is why we are looking at other funding sources at this time.

Mr. Rapozo: So the debris is just going to sit there until the private owners decide?

Mr. Trask: The next question has to do with that and we have to go and pursue how to discuss with the private owners with who the responsible parties should be. There are a lot of questions surrounding that.

Mr. Rapozo: I understand that but what have we done? I guess the bigger question is, "has the community been informed of this?" They are waiting...they only know what they know and they only know what they hear here and what they heard on April 18 was that we were going to schedule the removal with the road crews. This is a testimony I just received yesterday from Lorraine Moriguchi. Apparently, we are not in communication with them. She could not be here today...she is here, I am sorry. I did not see you walk in. That is the biggest problem is that we do not know because I did not get a copy of the letter from D.L.N.R. and I understand that F.E.M.A. is not going to pay. But what does that do for this County? Are we just going to leave the debris there? That is the question, I guess. I think that it is a potential hazard as well. Should another big rain come, where would that debris go? So I think we have to take some sort of responsibility

for the public safety. But we will leave that up to the experts. Mr. Chair, I have just one more question.

Chair Furfaro: Go ahead.

Mr. Rapozo: The last time we had discussion and I cannot remember when we had the A.D.A. people from Honolulu, but they mentioned that there may be some exemptions that we qualify for. Have we explored that avenue as far as exemptions from A.D.A., if we are restoring a historical bridge? I heard from them.

Mr. Tabata: Yes, we did and it was accepted. They sent us a letter saying that the design was accepted. They are in consultation with S.H.P.D. and we were ready to engage, except as I mentioned the storm changed the whole complexion.

Mr. Rapozo: The storm would not change the original design of the bridge. If we are going to restore the bridge, that is the question that we would have to ask the State. But from what I understand, or what I believe what I heard, if we restore that bridge to the original design, that it would not require...that we would qualify for exemptions. That we would not require land acquisitions and parking lots and all of that and that I think is where the \$5 million number comes if we are going to do all of these A.D.A. improvements. But I guess and it seems like we keep asking the same questions, but I understand that we would qualify for exemptions if we restore it to its original design.

Mr. Tabata: So the difference is between restoration and reconstruction. At this point, it requires a reconstruction and with spending Federal money, different laws kick in.

Mr. Rapozo: I understand, so we have been denied the exemption? Have we tried to get the exemption?

Mr. Tabata: No, it was approved back then for reconstruction.

Mr. Rapozo: But with the new development, with the storm?

Mr. Tabata: We still have to get on the S.T.I.P. and work with the State D.O.T.

Mr. Rapozo: I understand, but are we exploring an opportunity to exempt us from the A.D.A. improvements with a reconstruction?

Mr. Tabata: We have not gotten to that point yet.

Mr. Rapozo: Okay. I would ask that we do that first so that we can stay away from the \$5 million number because what happens when the public hears \$5 million, we start to get the emails say, "hey, that is a waste of money," because that is a determining factor on where we proceed. But I think we know what the original design of the bridge was, right?

Mr. Tabata: Let me clarify. The program that we are looking to help us fund is called Transportation Enhancement Funds. It is a Federal funded D.O.T. function program and we have to sit down and develop the project. From

what we already know, we will have to go through the whole National Environmental Policy Act (N.E.P.A.) process and that is where we will have all of the community involvement. We will have to visit Section 106 and depending where we are in the historic register, maybe even then trigger that. There is a whole process that we are about to embark that.

Mr. Rapozo: The purpose to go that route is to secure Transportation Enhancement Funds. I guess for me, if we have two (2) tracks and can go that route, Transportation Enhancement, and qualify for Federal funding, which would force us to will spend \$5 million of Federal money versus a local County Restoration or Reconstruction Project and we qualify for exemptions and it might be a \$240,000.00 project. I cannot imagine that the bridge would be that much. Why would we not go for the local reconstruction, if we qualify for exemption, we do not need the T.E. funds and do not have to spend \$5 million on a full-blown bridge with land acquisition, parking lots, and A.D.A. accessible walkways if we can restore the bridge for the cultural significance using our local funds, I guess that is what I am battling. I understand that we could qualify for some T.E. funds and a normal track or highway that would be okay. But have we tried to go to State and say, "this is what we want to do. We want to build the bridge to where it was, and yes, we have to secure some right-of-entry issues with land owners but can we get exempt from the process and can we reconstruct that bridge to what it originally was?" And go down that route, and see what the cost analysis is between the two (2) because as Mr. Mickens always says whether it is \$5 million of T.E. Federal moneys, it is still tax money and if we can get it done quicker using local funds...I think we have already appropriated the money.

Chair Furfaro: We have had this discussion. This bridge can be effectively done in three (3) phases. One is the restoration. After it is restored, we look at next step for acquisition of property and next step, expanding it as an alternative to walking over the highway bridge. We cannot seem to get unstuck from the restoration of the bridge first, then expanding its use through land acquisition, if we can apply for funds. The third phase is absolutely knowing that crossing that Hanamā'ulu bridge as a pedestrian right now is in itself challenging. So, I have made myself clear where I am at.

Mr. Chang: Have we gone upstream to see if there is additional debris or blockage prior to the Kapaia Bridge?

Mr. Tabata: The Department of Public Works has not. That is not our jurisdiction.

Mr. Chang: Has there been any dialogue with Department of Land and Natural Resources?

Mr. Tabata: Not from Public Works.

Mr. Chang: We may want to send a communication because it is been known to dam or block prior to the bridge, and if and when it rains and it dams, the water is going to come down as ferocious as it is because downstream, a few businesses there were flooded 4 feet, 4 feet within their property. So that would be a big concern. If we cannot move the debris from under the bridge, there may be some blockage, which is common on all of our streams. That might be something to put into consideration. Also, for the benefit of our audience and viewing audience,

can we explain for the benefit of the viewing audience what S.T.I.P. is and how does that work?

Mr. Tabata: It is the State Transportation Improvement Project fund. It is connected to the Long-Range Transportation Plan. In order to get onto that, you originally have to be on the Long-Range Transportation Plan that the State has. There are exceptions to that, where they have called for projects and if you have higher priorities that arise, and that is basically the opportunity for us to get on the program. They involve reconditioning or reconstruction of highways and safety improvements. In this case, transportation enhancements in a multimodal sense, so it is not only vehicles that drive on the road, but a multi-faceted program, and it is funded by the Federal Government.

Mr. Chang: Thank you.

Ms. Nakamura: Good morning, Lyle and Mauna Kea. I wanted to see if you could help jog my memory, because it has been a while. When we last talked about this, we were going down the route of just sort of fixing the bridge, replacing those towers. At the time we were talking about \$230,000.00, \$240,000.00, I believe. Is that accurate?

Mr. Tabata: At the time.

Ms. Nakamura: At the time.

Chair Furfaro: Excuse me, I just want to clarify, I said this earlier, and at the time, please clarify, all we were talking about at that time was the restoration.

Mr. Tabata: The reconditioning of the vertical towers and a few planks on the walkway.

Ms. Nakamura: What happened during the storm to the bridge itself that changed things?

Mr. Tabata: As it has been said, there was a blockage upstream and when that was let loose, the debris came down with such force that it hit the hanging structure, and damaged one side of one of the vertical towers. It also let the main suspension cable down or get ajar.

Ms. Nakamura: So based on that, is the rehabilitation of that structure not possible?

Mr. Tabata: In our assessment, it will not be...

Ms. Nakamura: It damaged the integrity of the structure?

Mr. Tabata: It damaged the structural integrity, yes.

Ms. Nakamura: So therefore, you cannot fix it or rehab it?

Mr. Tabata: We recommend it being completely reconstructed.

Ms. Nakamura: That is the main change is that the structural integrity has changed?

Mr. Tabata: Yes.

Ms. Nakamura: Okay. And so then when we go down the Transportation Enhancement Funds Program route, and the S.T.I.P. route, then it is a much larger project, because now we may have to abide by the accessibility requirements by the State and Federal Government. Is that correct?

Mr. Tabata: That is my understanding, but Councilmember Rapozo has brought up his points and I have noted those down. And it is worth a discussion point.

Ms. Nakamura: The part that sort of raised a flag for me is the State's requirement then to connect to Kūhiō Highway. Would that be like a bike and pedestrian way connection? Would that be the requirement?

Mr. Tabata: At this point, I am not totally informed on what exactly the requirement will be.

Ms. Nakamura: Okay, since there is already a road connection.

Mr. Tabata: Right. At the minimum a pedestrian, because this will be a pedestrian walkway.

Ms. Nakamura: Right. So it might be a much larger project from the bridge to Kūhiō Highway? I know in some portions there are sidewalks, but not the entire way. So I guess I am sure you are now working on what the total project scope look like?

Mr. Tabata: Yes.

Ms. Nakamura: Okay. Thank you.

Chair Furfaro: Before I go to Vice Chair Yukimura, I want to make sure that we understand where we are at here. First of all, on the first scope that we sent out, which was to structurally strengthen the bridge in its current condition, we never saw an engineering report on that. Am I correct?

Mr. Tabata: We do have.

Chair Furfaro: So I will send over a communication and ask for a copy of that report. Secondly, we are in agreement that JoAnn as the Chairman of our Transportation Committee will be able to participate in ongoing discussions, since it looks like the question about restoration alone is not real certain at this point. And you have agreed to that?

Mr. Tabata: Yes.

Chair Furfaro: And number three (3), I would like to get the County Attorney and that is you, Mauna Kea, involved. I do not just want numbers thrown out to us. I want you to tell me what kind of acquisition we are talking about for land in the way of get some appraisals. Is that acceptable?

Mr. Trask: Yes, Chair.

Chair Furfaro: Thank you. JoAnn, you have the floor.

Ms. Yukimura: Thank you for being here today, Lyle and Mauna Kea. If I recall correctly, we were waiting...in all of the discussions that we had about what long-term approaches we should take, before the storm it was stabilize the bridge. I believe that report from the consultants was to tell us how to stabilize it, and correct me if I am wrong...and that the repair of the towers would be one way to stabilize it. Am I mixed up in my memory?

Mr. Tabata: That is correct. We had one (1) section of the tower that vertical structure that needed replacing and the structural metal guides that held the cable in place needed to be replaced.

Ms. Yukimura: Because there was, as the Chair has acknowledged, this uncertainty about what our long-term strategies were going to be but we all agreed that any long-term strategy would be futile if the bridge fell apart. And so we said, "let us stabilize it and then figure out the long-term." But then the storm intervened and sort of made our fears come true.

Mr. Tabata: Yes, and so with that in mind, we talked to partners and as it was brought up previously, looked for different opportunities.

Ms. Yukimura: I am very thankful that the Administration is looking at the S.T.I.P. funds because I always thought that was a practical approach, especially because of the 80/20 ratio that would minimize the amount of County moneys that would be used. Since our goal is not stabilization anymore...is it?

Mr. Tabata: That prompted the cause for us to step back and reevaluate the whole project and then we started to look for these partnering opportunities.

Ms. Yukimura: Okay. And you said in that speaking with the District Engineer that there are some good possibilities that we might explore?

Mr. Tabata: He will assist us getting onto the S.T.I.P., if that is our desire, and help in creating the development details of the project.

Ms. Yukimura: That is good news. So the next thing is the scope of work.

Mr. Tabata: Yes.

Ms. Yukimura: And I guess the scope will include—part of the process will be to see whether we can get exemptions that do not require the maximum accessibility requirements, which would include wheelchair accessibility, right?

Mr. Tabata: Yes. Everything that was brought up here, the points, we will pursue and bring it up and see what we have to do.

Ms. Yukimura: Okay. So there is nothing that we need to do on the land at this point to protect the resource, whatever is left there?

Mr. Tabata: We have blueprinted the structure. We have the original blueprints. So we have enough to maintain the historic nature of the structures.

Ms. Yukimura: Okay.

Mr. Tabata: The integrity is lost as far as structurally. So the historic nature of the structure has been recorded.

Ms. Yukimura: Okay. One more question. Kapaia Hillside and who are the two (2) property owners?

Mr. Trask: For your information, from the research that I did, it is Kapaia Hillside CPR., or it is old Līhu'e Plantation land so we think it is Hā'ili Moe, LLC Corporation.

Ms. Yukimura: It is old plantation land so what is the LLC?

Mr. Trask: Hā'ili Moe.

Ms. Yukimura: In terms of land acquisition, refresh my memory again.

Mr. Trask: The Hā'ili Moe side of this project is the Hanamā'ulu side.

Ms. Yukimura: The Catholic Church side?

Mr. Trask: Correct. The Līhu'e side is the Kapaia Hillside Condominiums...that is the one of the large parcels in the CPR.

Ms. Yukimura: The need for land is if we were to just reconstruct it, would be for the piers or the places where the bridge is anchored?

Mr. Trask: As you recall, the Board of Supervisors authorized the building of this bridge in the '30's or '40's and it was built, at that time, without any territorial presence in the area, largely sugarcane and camps. It was built for the use of the tenants and I just provided the Kaiahole Study does contain the appendix "Land Acquisition Costs." Up until 2006, repairs were done to the bridge, but there were no rights of entry and there was no County ownership on the lands or roads servicing that on either side. So depending upon what is required when we go through the S.T.I.P. process, it may be required for Land Acquisition on both sides so we have to do it now to know much more specific...

Ms. Yukimura: Actually, if we had acquired the land, we might have qualified for F.E.M.A. moneys, right? Because it would have been a County project then. In County ownership?

Mr. Trask: I am not sure. The reason that we understood the bridge was not qualified for F.E.M.A. repair funding because the bridge was considered abandoned due to safety reasons. I do not know who made that

determination, or who made that consideration, but that is the information that I have at this point. My understanding was communicated to the Public Works Department.

Ms. Yukimura: It sounds like, and I am speculating here that it was not in use as a public facility?

Mr. Trask: (Inaudible.)

Ms. Yukimura: Okay. Thank you very much.

Chair Furfaro: Mauna Kea, I just want to remind you that if you go back and look at these documents that were just shared with us, there were some estimates dealing with the site improvements themselves and also some preliminaries on land acquisition. So, I would like to get that tightened up. I am not sure that I know exactly where this summary came from, but I assume Hā'ili Moe as a landowner who is some affiliate of Grove Farm.

Mr. Trask: Being that they are a (inaudible) and subsidiaries, however they take care of it.

Chair Furfaro: So there is some local calls you can make I guess. That is what relationships are all about.

Mr. Trask: Yes. Thank you, Chair.

Chair Furfaro: Thank you.

Mr. Kualii'i: Aloha and mahalo to both of you Lyle and Mauna Kea for the work that you do and for being here. My fellow Councilmembers asked most of the questions, I just have one. When you talked in the beginning about the \$5 million figure, I am interested to know if there is a comparison or analysis between the transportation option versus the restoration/reconstruction option as far as what would it would potentially cost. The breakdown of that cost for the actual bridge, for the land. Because there are different land needs with the different costs, right? If you just did a restoration and reconstruction, you would not be acquiring additional lands? The additional lands is to do the switch back for the transportation option because it is much wider and there are all of these different requirements. So I think before the decision was made on how to move forward, was there a full analysis between both options? And in that analysis, what role did the community play in having input and being a part of that decision-making? Or if the final decision was not made yet?

Mr. Tabata: So at the point in which we decided to just structurally...spend approximately \$230,000.00 last year, that was to stabilize while we were then going to have more time to develop the entire project, keeping in mind that we did not have any legal access. So that discussion was supposed to begin with the community regarding the access issue.

Mr. Kualii'i: By saying, "to develop the project further with a community," that that would be to explore both options. The option of the transportation option which is a bigger more expensive option or the restoration/reconstruction option?

Mr. Tabata: Right.

Mr. Kualii: And that can still be done because the language about and what I heard said about the integrity of the bridge is lost, but the historic blueprint, that still remains. So is it an option, even if it appears to be building new again, if you build new again in the exact way that it was before, sort of creating a replica, if you will. Is that still an option or do you not know as far as the exemption and the cost? If you clearly put forward both distinct options and then do the cost-benefit analysis and work with communities, because as far as what the benefits are, it is a value thing to the community. Can that still be done?

Mr. Tabata: You still would have a structure there that has no legal mode of access.

Mr. Kualii: If you do not use the S.T.I.P. funds and if you do not do the big reproduction of a transportation option across the water, and you do the restoration or reconstruction or rebuilding or building new again a replica of the old bridge for historical reasons, could you then get that exemption? I do not think we know that.

Mr. Tabata: So you are asking us...if I understand you right, you are asking us to just rebuild it to be a monument?

Mr. Kualii: Maybe. I do not know if that is what I am asking but it may be what the community is asking and I am asking you what have you found out from the community in your work with the community? As far as the two (2) very distinct options and what is possible still going forward, even with the storm.

Mr. Tabata: So those were the questions that were going to be worked on after we make the bridge structurally sound at that point and then begin discussions on what "the end game" would be for the bridge. They have a foundation there that is tax exempt and there are opportunities there.

Mr. Kualii: Thank you very much. Thank you, Mr. Chair.

Chair Furfaro: That is one of those questions that is coming over. I would rather we use the term "historic sense of place" versus "building a monument." I used to star-hook tilapia in the '50's in Kaupuni Stream. I had very fond memories of hanging off of a mango tree and star-hooking tilapia. I think there are people in Hanamā'ulu that have a feeling of sense of place versus...and I think recreating that sense of place in the first phase is something that we want to certainly put in the questions, Lyle. It is exactly that, sense of place. Lyle, I do not want the day to go by and not ask you what is reasonable and what do you think? What do you think we could hear on these questions you have heard from us today? Would you get back to us in December? Or you tell me what is feasible here.

Mr. Tabata: I need to sit down with our partners, the Kaua'i District Manager of the Department of Transportation and really begin the process. We will look at alternatives and options. You have raised a lot of questions. I hope they come in writing. I took some notes.

Chair Furfaro: Our questions always come in writing.

Mr. Tabata: I would wait for those and sit down with him, and look at the options and of course, invite Councilwoman Yukimura to join us.

Chair Furfaro: If you could do that on behalf of the Council, I would appreciate that very much. I am sure she does not mind my volunteering her for that.

Ms. Yukimura: Not at all, Chair.

Chair Furfaro: Gentlemen, thank you very much. So when you get my questions, review them and tell us when you think you can, and get back to us.

Mr. Tabata: Yes.

Mr. Trask: Chair, just as a question regarding your request for Acquisition of Land. Do you still want me to tighten up what is contained?

Chair Furfaro: Yes, review it and send us a memorandum on the metes and bounds that are described there. Let us tighten up the number. I think you are hearing some of the sentiment here which is, "let us spend some of our money to restore the bridge and phase 2, look at some acquisition and phase 3, see if we can expand its actual use." And each phase is a different amount of money. Understood. Thank you, gentlemen. And Lyle, I am sorry, could you come back up? I think it is also important to give praise where praise is due. I want to thank the Public Works Department-Engineering for settling with the storm damage and I understand that we got \$2.5 million reimbursed on those three (3) lagging street projects from the flooding.

Mr. Tabata: Yes.

Chair Furfaro: I want to say on behalf of the Council, we were fine with putting the money upfront to do the work and we are very thankful of the recovery that you did for us, adding up to \$2.5 million. Thank you very much.

Mr. Tabata: Thank you.

Chair Furfaro: Is there any testimony from the public here? Did anybody sign up? Our plan is to send over some questions and get this on the agenda one more time before the year ends.

LORRAINE MORIGUCHI: Good morning Council members, my name is Lorraine Moriguchi, representing myself and the Kapaia Foundation. I am sorry I came in late and I missed at least half of it. And the second-half I am kind of surprised at what is happening. It seems like they are moving in a different direction from maybe a new bridge. We knew nothing about this. I do not want to say anything much more, because I was not here in the first-half.

Chair Furfaro: Let me reassure you, until...I do not know if you heard the six (6) questions that I summarized. But until we hear back from them, the Council is still focused on a restoration.

Ms. Moriguchi: Okay.

Chair Furfaro: Number one (1), the Council is still focused on a restoration.

Ms. Moriguchi: Good.

Chair Furfaro: Number two (2), when they meet with their partners about discussions about a potential restoration, we have asked to make sure that Vice Chair Yukimura is included in that conversation. Number three (3), if the only way that we can get S.T.I.P. funds is not from the historic standpoint, but the need to actually make it a transportation corridor for pedestrians, then we need to hear from the Legal Department on easements and acquisitions. There are actually three (3) parts here, but the Council is still focused on restoration as we were a year-ago.

Ms. Moriguchi: Okay. That is what the community has focused on is restoration.

Chair Furfaro: Yes. I think there was some concerns here, voiced by the Council, that were similar to yours. There needs to be an improvement in communication from the Department to the community and hopefully they are open to that after hearing from the Council.

Ms. Moriguchi: Okay. I was very concerned when I heard them saying that the historical integrity is lost. That really troubles me. I cannot understand how that would be, because the foundation is still good. The towers are still there.

Chair Furfaro: And to their credit, Lorraine, Mr. Dill and Mr. Tabata on their own initiative, they shared with us that they duplicated the blueprints for the towers. So they have some historical record. That is what they told us today.

Ms. Moriguchi: Duplicated the blueprints?

Chair Furfaro: Yes. For example, the tall towers, when they collapsed or were...

Ms. Moriguchi: They did not collapse. The towers are still there.

Chair Furfaro: Let me tell you, the towers are not secure whether they collapsed or not. The bridge itself is not secure. It has fallen. They have told us that they have duplicated—and I am not going to call him back up. He has told us that he is duplicated blueprints for the original structures that can be used for historic documentation, to their credit.

Ms. Moriguchi: Yes, the original blueprints were always there and available.

Chair Furfaro: I am not going to be here to argue with you if they are always available. He told us on their own initiative, they redrew them.

Ms. Moriguchi: Okay. That is good. Thank you.

Chair Furfaro: They should get some praise for that.

Ms. Moriguchi: Anyway, I would just like to read my testimony. Kapaia Foundation's immediate task is to make sure the County fulfills its commitment to replace the two (2) towers on Kapaia's Swinging Bridge. We are disappointed with the progress of the Kapaia Swinging Bridge restoration, but as the saying goes, such is life. So rather than expressing negative frustrations, we would first like to take this opportunity to thank you, our elected the Councilmembers, for not giving up on this project. Also, we would like to acknowledge and thank Jerome "The Shadow" Freitas for his steadfast and active support of our effort since the day the bridge was closed. Jerome works tirelessly for the good of our community. He is knowledgeable, persistent, and dependable. Secondly, I would like to report on some of the projects that Kapaia Foundation has been working on while waiting for the County to move forward with restoration of the bridge. We are pursuing Kapaia Foundation's greater vision of preserving and promoting the rich history of Kapaia Valley. Number one (1), we are meticulously maintaining the area surrounding the Kapaia Swinging Bridge. Please visit or revisit and enjoy the peaceful tranquility of Kapaia Valley. Number two (2), we have established an academic scholarship to Kaua'i's High School graduating Seniors who demonstrate quality passed on from our forefathers; hardwork, perseverance, and a positive attitude. The purpose of this scholarship is to recognize the dreams of our forefathers for the success of their descendants. Kapaia Foundation's desire is to instill in young people an appreciation for the rich history of the Sugar Plantation era in Hawai'i. The sugar plantation laborer's work ethic set the foundation for success enjoyed by their children, grandchildren, and generations thereafter. Number three (3), with the help of trained biologists, we have started the monumental task of restoring and Hanamā'ulu Stream. Number four (4), next spring we have plans to revive the tradition on flying carp. This project was inspired by the discovery of an old Senda photo dated 1935, showing the Japanese families of Kapaia, celebrating Henry Kuba's First Boy's Day, now called Children's Day. Number five (5), we continue to compile histories of immigrant families of Kapaia. Number six (6), our red ginger fundraising project is slowly but surely taking route. Soon, the red flowers will enhance the valley scenery from the bridge and provide some income to maintain the restored Kapaia Swinging Bridge. Finally, we humbly ask for your continued support to preserve the legacy of Hawai'i's Sugar Plantation era immigrants. Most recently Kōloa Camp was closed and Lihu'e Sugar Mill no longer exists. Next, Kekaha Sugar Mill will be demolished. Once gone, the historic Kapaia Swinging Bridge will never be replaced. Our cultural heritage is at stake and we need your continued support. Thank you.

Chair Furfaro: Thank you. Lorraine, I want you to know that the valley is certainly perpetuated in the eyes of the Council. We have this photo in our conference room. You can see the Catholic Church, the stream, the crossing back from 1938. So I want to let you know that we are constantly reminded of the historic value of this place. And I just wanted to say thank you.

Ms. Moriguchi: Thank you.

Chair Furfaro: Vice Chair Yukimura.

Ms. Yukimura: I had a question for Ms. Moriguchi. First of all, thank you for your presentation. It could not have been more articulate in terms of the importance of preserving our culture, and history. Congratulations for all that you have accomplished in the time between the last briefing and now. So you started out by saying that you want to see the two (2) towers replaced?

Ms. Moriguchi: Well, we would like more, but that is what the Administration committed to.

Ms. Yukimura: Yes.

Ms. Moriguchi: That is better than nothing.

Ms. Yukimura: Well, I think the long-range goal is for the whole bridge to be restored. I think there is some confusion in terminology terms of what we heard from Public Works. Because I think—I do not hear a lack of commitment to bringing the bridge back to its historical design, but what I heard was that the structural integrity of the towers is gone. I hope they will correct me if I am speaking what they said imperfectly, but as I understand it, that is the distinction between “restoration” and “reconstruction.” It sounded like the goal is the same. You may have to rebuild...you may not be able to use the old timbers or whatever, but restoring it to how it looks and functions as a historical bridge is still the goal. My question is that...would that serve the goals of your community?

Ms. Moriguchi: I think the understanding always was that the towers needed to be replaced. That part of the bridge needed to be replaced.

Ms. Yukimura: Okay. They may call it “reconstruction,” but still the goal is...

Chair Furfaro: The historic integrity and restoration.

Ms. Yukimura: Yes. So that you are still going to achieve the historical integrity but it might be a reconstruction rather than a restoration. I think those are technical terms that I probably do not fully understand myself.

Ms. Moriguchi: Parts of the bridge need to be reconstructed, but parts of it are still good. The cement foundation, as I understand it is still good. So that does not need to be touched. The cables are still good. I do not know what you call those...but all of the wood parts need to be replaced.

Ms. Yukimura: I hear what you are saying and I think that will get clearer as the scope of work is determined.

Ms. Moriguchi: In the end, the historical integrity will be the same and because parts of it are still good, it will still be historical.

Ms. Yukimura: Yes. Thank you. That helps me understand better. Thank you.

Ms. Moriguchi: Okay.

Chair Furfaro: Members, I really do want to add another question, that is fine, but I really want to move on. We still have to take other testimony.

Mr. Chang: I have a very quick question.

Chair Furfaro: Go ahead.

Mr. Chang: Thank you for being here. Did you submit your written testimony to the staff?

Ms. Moriguchi: No, but I have it.

Mr. Chang: If we can get a copy, please. Thank you, Chair.

Chair Furfaro: Thank you. Is there anybody else in the audience that would like to speak? Come right up, Ken. In the back, you are next. Joe, you will be third. And Glenn, you are going to the game.

KEN TAYLOR: Chair, Councilmembers, my name is Ken Taylor. I, too, was a little surprised today to see how this project has sort of veered off into many different areas. And certainly was pleased with Chairman Furfaro's suggestion that there were three (3) focus areas in which to move forward on. What I did not hear was in coming back with a future report is to how those three (3) focus areas would be achieved? If I missed something, I am sorry about that. But I think it is really important that those three (3) focus areas be addressed firmly, and be the guiding light of how this all moves forward. Certainly, the cultural and historical aspects of this bridge are very important to not only the community, but benefits our economic engine tourism as well. The one (1) issue that I have not heard talked about, and am concerned about is that we heard that after the storm this spring of the damage that has been done by the debris coming down the river or stream, whatever you want to call it. But I have not heard anything as to how are we going to address this issue in the future? We know the potential of damage is there. We have seen it. It would be very foolish to move forward with restoration without considering how we move forward with protecting this asset in future. There has to be a method somehow upstream of the parties involved, the County working with D.L.N.R. or whoever is responsible, to take the necessary steps to keep this activity from happening again. Thank you.

Chair Furfaro: Thank you for your comments, Ken. Next speaker. Good morning.

NINA MANASAVAGE: Thank you all for your excellent questions and concerns. I really appreciate it. Lorraine missed the first part of the meeting so I wanted to answer Councilmember Chang's question about the debris. Lorraine personally with another Foundation member, has removed all the debris around the bridge by hand. So that was a humongous task and if you have not noticed, it looks a lot better down there. And I totally agree with what the question and concerns that were brought up earlier and what Ken just said about upstream debris because I live in the valley and we were woken up that night by a massive wall, like a mini Ka Loko, basically. Scarier than going through Hurricane Iwa, where I lost everything that I owned. It was that roaring amount of debris coming down with a wall of water so potentially, extremely dangerous. On that note, Lorraine had contacted D.L.N.R. to have the big guava plum tree removed which created the dam that caused the blockage 6-8 months before the storm. I would like to reiterate what Ken is saying is that Public Works needs to be working hand in hand with D.L.N.R. to prevent this kind of debris build-up from happening again for public safety and for all concerned. The other thing that I wanted to clarify is we have been working with Don Hickock and Kyle Burg on trying to restore the watershed. It is long process. I have been corrected that it is indeed a river because it empties into the ocean. There used to be a lot more water flow so we are trying to establish the first step of getting in stream water flow rights back. I too am concerned of the

lack of progress in a year. It is pretty unbelievable actually that the Administration is, like you said, not answering these questions, which you have very clearly stated. It is sort of like the questions keep getting asked over and over again. It is kind of amazing actually. Thank you for being diligent and persistent and asking the good questions and I appreciate your support. It is a very special place down there. As I have testified before, having lived here for 34 years and having worked in the tourist industry, the tourists want old Kaua'i. That is what is going to keep the tourist dollars coming here, not another Waikiki or Maui and restoring the watershed is absolutely critical for the multi-million dollar resort business of diving, snorkeling, and boat tours. Thank you very much for your time.

Chair Furfaro: Thank you for the work you are doing with Mr. Berg on the watershed. Mr. Chang.

Mr. Chang: Nina, thank you. Have you folks taken the opportunity to go upstream and see if there is blockage as far as debris?

Ms. Manasavage: We have definitely thought about it, but as far as safety and property rights, we do not know how to do that legally or safely, but I would like to.

Mr. Chang: Thank you.

Chair Furfaro: Thank you very much, Nina. Is there anyone else that would like to testify on this item? Mr. Rosa, you are the last.

JOE ROSA: Good morning, for the record, Joe Rosa. While I was here from the start, when this subject of Kapaia Swinging Bridge has come up before the Council, I remember walking over that swinging bridge up until the original swinging bridge was washed out in November of 1941 when the Tanaka Reservoir Bridge up mauka, that destroyed the swinging bridge. Thereafter, people had to walk around the main highway to come to Fernandez, Carvalho, Ihara, and all those stores on the other side besides the Naganuma and from a store on the bottom of the swinging bridge there. So I am history and all the people of Kapaia are asking to restore that to the original and like Lyle said, they found their old plans. So if you have the old plans, it is easy to restore, JoAnn. All you have to do is get the plans and follow the plans. If you do not understand Engineering Technology, I worked with D.O.T.

Chair Furfaro: Mr. Rosa? You need to address your comments to the body.

Mr. Rosa: Yes, like I always tell you, Jay, I bring things to the point. It is part of what I have to say.

Chair Furfaro: I understand. And...

Mr. Rosa: People always say, "why does he always interrupt me?"

Chair Furfaro: We value that.

Mr. Rosa: Yes, okay.

Chair Furfaro: But do not direct comments...

Mr. Rosa: Well, let me speak, Jay.

Chair Furfaro: I will go to recess, Mr. Rosa. I am telling you, you direct it to the whole Council. You do not point or call out specifics.

Mr. Rosa: I am not pointing, Jay. Like I say, people always say you do not give me the chance to speak. Why is that? They like to hear. Let me speak. I am a Veteran.

Chair Furfaro: We are in recess.

There being no objections, the meeting recessed at 10:38 a.m.

The meeting reconvened at 10:45 a.m., and proceeded as follows:

Chair Furfaro: Go right ahead.

Mr. Rosa: As I was saying, the thing is, it calls for restoration. That is all the Kapaia committee wants to see. What I had to say previously leads off the subject of restoration of that bridge. There is some research, like I hear Mr. Trask stressing about acquisition of property. The thing is that I understand when I was working with D.O.T., is that Kapaia Road, at that time, along with Ma'alo Road was owned by the State and Laukini Road was owned by the County. I do not know why and where the County lost control of Laukini Road because I paved Ma'alo in the '80's and that was paved right after that. Who paid for that? If it was a County Road, it was paid by County, so the County owns that road from Kūhiō Highway down to that bridge. According to the statement I got from Mr. Gage at that time from the land office was that those two (2) roads—by gentleman's agreement of an old handshake, that was how deals were made, by a handshake. So if Mr. Trask, he comes from an old kama'āina family; would look into the ownership of the road or the County Attorney's Office, they would find that somehow, the County still owns that road. We do not have to spend no more money acquiring property. How can there be split ownership of the road? Hongwanji in the beginning, and somebody else in the end. They have all private individuals that live within that valley so I still feel, and the public feels, it is still a County road because the County gives the street names and road names on Kaua'i and Laukini Road has a name to it. So it simply tells you it is a County road. And I will be around for anymore questions and I have told Lorraine that I can share my history and my knowledge of Kapaia. Thank you.

Chair Furfaro: Mr. Rosa, I want you to say, since you could name some of the those stores in the photograph that I pulled out earlier, maybe you could help us one day to look at that photograph, because it does earmark those a few of those stores.

Mr. Rosa: I would be willing.

Chair Furfaro: Secondly, we have some work we are doing on roads in limbo and anything that you could contribute to there would be well appreciated.

Mr. Rosa: And a good example, Jay, I do not know if you remember the M.S. Carvalho Store that is in existence right now that was damaged by Iniki, it was totally restored to give it the old atmosphere of Kapaia. That is one of the things that I appreciate seeing and keeping it like Kapaia and that goes for the swinging bridge. It was a swinging bridge and the other things were built for the plantation and then later, the County took over that bridge. Plenty of times I went over that swinging bridge as a youngster. Thank you.

Chair Furfaro: Sir, on that note, I want to make sure I do, while we are on public record here to just say again to you, I value your history.

Mr. Rosa: Thank you.

Chair Furfaro: It is people like you that are treasured in our community.

Mr. Rosa: Yes, Sir.

Chair Furfaro: But my role as Chair is also to follow the rules, and I just wanted to point out and I think my staff did, why I took a recess. But you are a valued member, especially on what you bring to this Council table. Thank you.

Mr. Rosa: Thank you.

Chair Furfaro: Is there anyone else who wishes to speak on this item? If not, I will call this meeting back to order. I think we have a motion to receive and a second. We will be sending over a series of questions. If something comes up within the next 24 hours, please add it to the list. But I want to expedite that note so Lyle can expedite a response to me. Any further dialogue? Vice Chair Yukimura.

There being no objections, the meeting was called back to order, and proceeded as follows:

Ms. Yukimura: Yes, Chair. I just want to thank you for putting this item on the agenda, because we were probably overdue for a briefing. I think this experience over the last year shows us number one (1), I guess the importance when we know there is an historical resource and making sure that the resource is stabilized with all due speed. I am glad that the Administration is looking at the S.T.I.P. process and that the D.O.T. District Engineer is willing to help because even as we follow the Chair's three (3) steps, which I think is a good framework. It is important to know what the end in mind will be, and the S.T.I.P. process does take long. So it is important that we start. Lastly, I want to say, when I look at this picture on the Kai Report, it is such a beautiful photo of the bridge. And it just...I mean this is it. This is sense of place. This is history. And that is the importance of restoring this bridge and Lorraine spoke more articulately than I could. This is our goal. And I hope that it will be a transportation element as well, because then it is even better that a historical bridge would be able to have its historical purpose restored once again, which we need so badly because it is so dangerous to traverse as a pedestrian, or even a bicyclist, who might at least carry their bike over the bridge. This historical bridge, instead of trying to traverse the existing roadway, which is so dangerous. I see people walking that daily route between Kapaia and Hanamā'ulu and having a safe way to do that route by bike or foot is so important and I am going to continue to hold that vision and that

possibility so that we can reach that end and I really want to thank the community, Public Works and our Attorney's Office for continuing to work on this.

Chair Furfaro:

Thank you, any more comments?

Mr. Rapozo: Thank you. I want to thank Lorraine and your committee organization for all that you have done and you are doing. I do not know, I share your frustration. If this was a priority of this County back in 2006, when we appropriated the money, it could have been done already. It is not a money issue, but a priority issue. We get all of the emails from the community. I believe we have responded in a responsible way, but it is not us that can direct Lyle folks to go do the bridge. So your emails great, I love them. But send them to the Mayor—(mayor@kauai.gov), because he needs to hear it from community because I believe in my heart is this is a priority issue. If the Administration wanted it done, it would be done, plain and simple. When I read the report, the report was done, in my opinion, to make it as expensive as possible and to deter the Council from moving forward with the bridge. \$5 million, the reason I disagree with Councilmember Yukimura as far as the S.T.I.P. funds, is because 20% of \$5 million is \$1 million. We would have to come up with \$1 million for this elaborate project with parking lots, parking stalls, and ramps. That is not what the community is asking for. The community is asking to restore a...and if it is a monument, so be it. I will challenge anybody here. If they think that is a bad idea to restore a monument, a culturally significant part of this island. Yes, maybe people that have been here in the last 20, 30 years do not appreciate it, but for the people that were born and raised here—I got an education from Uncle William Rapozo. I was almost brought to tears by some of the stories that he told. That Kapaia Valley is significant to this island. It is very significant to this island and this bridge is a big part of it. If it is a monument and we can restore it at a relatively reasonable price, I support that. But to come up with these kinds of numbers to discourage—we got some emails from people on this island, well I did, about how much a waste it would be, because the number was thrown out there, the multi-million dollar bridge, which I think was totally exaggerated. I think it was presented that way to get that response from the community. My gosh, this is a wooden bridge that we have heard from the State, here in these Chambers that would qualify, because of its historic designation and significance, for exemptions. And yet, we have not even explored that. So it is a priority issue. I guess that is my comment for the day. This is a priority issue and until the Mayor makes that directive to Public Works, to get it done, it is not going to happen. It has been six (6) years already to do a bridge, a small bridge. Am I from Kapaia? No, but I have been on that bridge growing up from the Catholic Church, that is where we played for many years. Will it serve a multimodal transportation purpose? Maybe not but that is a different issue. The issue I am saying is the cultural significance of that bridge to this island as Lorraine, as you have so well-stated in your testimony. We are losing it every day. You know, years ago we funded...and it was not much, but we funded the restoration of Japanese monument, because of its significance. This, in fact, yes, a little more expensive, but still not less significant to this island and its history. If the people cannot see that significance, then I feel sorry for them because it is such a vital part of Kaua'i—it is. And I am hoping and praying that I will get to see this in my lifetime get done. But the longer we wait, the harder it will become. And we have seen this. If in fact in 2006, when it was restored as they said they would restore it based on estimates that they received, the \$240,000.00 could have restored that bridge in my opinion and we did not do it. Now it is going to be significantly more. I am hoping that we can continue to push the Administration

and again, mayor@kauai.gov, will get it done, if in fact, the priority is given where it needs to be. That is all I got. Thank you, Mr. Chair.

Chair Furfaro:

Thank you. Mr. Chang.

Mr. Chang: Chairman, thank you very much and thank you for your testimonies. I want to thank Lorraine and of course, Nina, for their testimonies. It was ironic and you mentioned about the damming and the debris. I just wanted to share this month's edition of our Department of Land and Natural Resources talks about what is going to be on the ballot. "Shall the State be authorized to issue special purpose resident bonds and use the proceeds from the bonds to assist dam and reservoir owners to make their facilities compliant and current with safety standards?" So it does talk about water issues with dams and flooding. So that is something that we will follow up with a communication as to how we can legally and safely see what the debris may be like upstream from where the bridge sits. I also do want to echo Vice Chair's sentiment with the picture of the bridge. I said it before and I will say it again. So many of our local residents and our visitors attend the church and when you park at the church, when the services end, there is a lot of back traffic because there is only one way to go out, especially if you are taking a left turn. It would be so therapeutic for the children and for the visitors just to go down memory lane and to see what it is like so that you can just go back into yester-year and not try to rush and get out. I also said for the benefit if we could get the permission from the church. The bon dance there at the Hongwanji every year is so popular and so packed and it is in Līhu'e, and that would be additional parking because it is a very difficult place to park and get in and out. Back and forth from the Hongwanji and the Immaculate Concepcion, this would be a great route that people could therapeutically and safely use to do both activities on either side so I believe that we all want to see it restored and we all want to see it being used for safe transportation. Thank you folks, for all of your testimonies and we appreciate everybody that has interest in preserving this historic monument.

Chair Furfaro: Is there anybody who would like to speak for the first time before I recognize Vice Chair? Mr. Kualī'i.

Mr. Kualī'i: Thank you, Mr. Chair for bringing this forward for an update and I want to thank Lorraine, Nina, and everyone at the Kapaia Foundation. It has been too long, I think, getting these questions forwarded is important. And I hope we will hear back in December and have it on the agenda as well so that the community can be a part of it. Again, I just wanted to reiterate that my question about having a full analysis cost-benefit of both options. I think it is important to see them side-by-side, to know how to best move forward. And that we need to know for sure that we can still get the A.D.A. exemption for the restoration and reconstruction option and that it is still possible despite any loss of bridge integrity. Last thing, I think it is so important that the Administration does a better job of involving and informing the community. And that hopefully they do not hear from the Administration only at the next meeting and we can be kept abreast of how things are proceeding and what further information the administration is collecting on what is possible.

Chair Furfaro: Anybody before I recognize Vice Chair Yukimura? Vice Chair Yukimura, you have the floor.

Ms. Yukimura: I just want to clarify, given Councilmember Rapozo's statement that I am not in favor of parking lots and so forth. My pointing out this picture or advocating S.T.I.P. does not assume a scope of work. If the bridge is a transportation walking...part of a walking path, you do not need parking. So I want to make that clear. I do think also that delays on this have been due to the ambivalence of the Administration, but I hope I hear a new commitment on the part of the Administration to move ahead. I think the Council will be holding them to account on that. Thank you.

Chair Furfaro: Okay. Anyone else before I speak? First of all, Lyle, thank you very much for the update. Mauna Kea as well. We will get those questions over to you folks as urgently as we can because we would certainly like to regroup again in December. I want to also thank the Kapaia Foundation in staying so close to this and showing the stewardship that you have for your community. We will be back in December, I hope, for further discussion. So thank you again, Lyle, Mauna Kea, and Lorraine. I would like to ask we have a motion to receive and a second. May I just say all those in favor, indicate by saying aye?

The motion to receive C 2012-411 for the record was then put, and unanimously carried.

C 2012-412 Communication (10/05/2012) from the Fire Chief, requesting Council approval to expend approximately \$5,400.00 from the Prevention Bureau's Equipment Account for a 10kw generator to be used with the new educational/safety trailer: Mr. Kualii moved to approve C 2012-412, seconded by Ms. Yukimura, and unanimously carried.

Chair Furfaro: Thank you very much. Now if I could speak to the Clerk for a minute. We have several items that we should actually go into Executive Session on first, and then come back out into the public. I just want to recap my interpretation is C 2012-414, C 2012-415, and C 2012-385. Am I correct?

Mr. Watanabe: Yes, C 2012-414, C 2012-415, and C 2012-385.

Chair Furfaro: So after we go to C 2012-413, which is "Transmitting the First Quarter of Purchasing," then we will go to Claims and then go to Committee Reports.

Mr. Watanabe: We have one legal document 416, Chair.

Chair Furfaro: But what happened to 413? Quarterly statement, we should receive that, right?

Mr. Watanabe: Right.

Chair Furfaro: Could you please read that item?

C 2012-413 Communication (10/08/2012) from the Director of Budget and Purchasing, transmitting for Council information, FY 2012-2013 1st Quarter Statement of Equipment Purchases, pursuant to Section 17 of the Operating Budget Ordinance No. B-2012-736: Mr. Chang moved to receive C 2012-413, seconded by Ms. Yukimura, and unanimously carried.

There being no objections, C 2012-416 was taken out of the order.

LEGAL DOCUMENTS:

There being no objections, C 2012-385 was taken out of the order.

C 2012-416 Communication (10/18/2012) from Ian Jung, Deputy County Attorney, recommending Council approval to acquire Lot 1-C (Ibbs Subdivision), Waipouli, Kawaihau, Kaua'i, Hawai'i through an Exchange Deed with Ryan Richard Rutt, Jennifer Anne Rutt, Kenneth G. Barker, as trustee of the Kenneth G. Barker Trust dated March 20, 2008, Melissa A. Barker, as trustee of the Melissa A. Barker Trust dated March 20, 2008, Harvey L. Cohen, as trustee of The Cohen Family Trust under unrecorded Trust Agreement dated July 24, 2008, Frank Mashevich, LTJ Colby Properties Hawai'i LLC, Patrick L. Ibbs, and Stephanie A. Ibbs, as previously approved by the Council through Resolution No. 2008-3

- Exchange Deed (TMK: (4) 4-4-004-028 (por.), TMK: (4) 4-4-004:003 (por.), TMK: (4) 4-4-004:053 (por.)

Ms. Yukimura moved to approve C 2012-416, seconded by Mr. Chang.

Chair Furfaro: Mr. Rapozo.

Mr. Rapozo: Can we get a briefing on the purpose for this exchange deed?

Chair Furfaro: I am sure we can. Is he coming over? Let us just defer this until we have Ian present. Mr. Graham, do you want to say anything at this time? Should we have the County Attorney speaker first?

Mr. Rapozo: No disrespect, I would ask the County Attorney.

Chair Furfaro: Okay. One member asked the question. One preferred the County Attorney, so I just want to hear from Max. If you are fine, we will wait for the County Attorney. I do not think any respect was lost in the question to Vice Chair Yukimura. So we will wait on this one until Ian Jung is here.

CLAIMS:

C 2012-417 Communication (10/01/2012) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by State Farm Insurance, as subrogee of Diane C. Cooke, for damage to her vehicle, pursuant to Section 23.06 Charter of the County of Kaua'i: Mr. Kuali'i moved to refer C 2012-417 to the County Attorney for disposition and/or report back to the Council, seconded by Mr. Chang.

C 2012-418 Communication (10/09/2012) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Christopher J. Gandeza, for damage to his vehicle, pursuant to Section 23.06 Charter of the County of Kaua'i: Mr. Kuali'i moved to refer C 2012-417 to the County Attorney for disposition and/or report back to the Council, seconded by Mr. Chang.

C 2012-419 Communication (10/10/2012) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Kaua'i Island Utility Cooperative, for damage to their property, pursuant to Section 23.06 Charter of the

County of Kaua'i: Mr. Kualii moved to refer C 2012-417 to the County Attorney for disposition and/or report back to the Council, seconded by Mr. Chang.

C 2012-420 Communication (10/11/2012) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Wally Iwasaki, for personal injury, pursuant to Section 23.06 Charter of the County of Kaua'i: Mr. Kualii moved to refer C 2012-417 to the County Attorney for disposition and/or report back to the Council, seconded by Mr. Chang.

Chair Furfaro: Any discussion? Vice Chair Yukimura.

Ms. Yukimura: I just want to say that a brief review of the last two (2) claims indicate some issues of operational attention to safety and I hope when that when we get briefed on this and I am not asking for a special briefing, but when it does come back to us, that the Administration will have looked at these issues and be able to brief us on them. Thank you.

The motion to refer C 2012-417, C 2012-418, C 2012-419, and C 2012-420 was then put, and unanimously carried.

COMMITTEE REPORTS:

HOUSING / TRANSPORTATION / ENERGY CONSERVATION & EFFICIENCY COMMITTEE REPORT:

A report (No. CR-HTE 2012-12) submitted by the Housing / Transportation / Energy Efficiency Committee, recommending that the following be approved, as amended, on second and final reading:

"Bill No. 2446 - A BILL FOR AN ORDINANCE AMENDING CHAPTER 17A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO BUS FARES,"

Mr. Rapozo moved for approval of the report, seconded by Mr. Kualii, and unanimously carried. (*See later for Bill No. 2446, Draft 1.*)

PUBLIC SAFETY & ENVIRONMENTAL SERVICES COMMITTEE REPORT:

A report (No. CR-PSE 2012-09) submitted by the Public Safety & Environmental Services Committee, recommending the following be received for the record:

"PSE 2012-06 Communication (10/10/2012) from the Council Chair, requesting the presence of the Prosecuting Attorney, to provide an overview and update on the Teen Court Program,"

A report (No. CR-PSE 2012-10) submitted by the Public Safety & Environmental Services Committee, recommending that the following be received for the record:

"C 2012-401 Communication (09/11/2012) from the Civil Defense Agency, requesting Council approval to receive and expend grant funds from the U.S. Department of Homeland Security, via the State of Hawai'i Department of Defense in the amount of \$359,925.00, to be used for the FY 2012 State Homeland Security

Program which will enhance the capability of State and local units of government to prevent, deter, respond to and recover from, threats and incidents of terrorism, and to continue to provide support to the Citizen Corps Councils,”

Mr. Kualii moved for approval of the reports, seconded by Mr. Chang.

Chair Furfaro: Ms. Yukimura.

Ms. Yukimura: I just want to take this opportunity on the issue of Teen Court to say that the statement made by Mr. Mickens this morning was not accurate. He said that the State O.Y.S. directed O.P.A. to suspend its use of the program as it appeared that there may be a procurement law problem. There was a letter from O.Y.S. Director in writing stating that he never directed the Office of the Prosecuting Attorney to suspend referrals and, in fact, felt that referrals were very important. Mr. Mickens also raised the question, saying that the Office of the Prosecuting Attorney had nothing to gain by its suspension of the referrals. Actually, there is a potential conflict of interest in that the Office of the Prosecuting Attorney might have wanted to divert these young people to the Keiki P.O.H.A.K.U. program instead. And that may not have been in the best interest of the young people. That is why I asked questions about how the diversion would be determined. Which child would be diverted to which program and for what reasons and by whom? I think those are very legitimate questions to ask. So if the motive of the Prosecuting Attorney was to see that Teen Court serve young people, I believe she would have not suspended the referrals, based on unsubstantiated reasons but, in fact, would be ascertained with certainty whether those reasons had grounds, or would have investigated and advocated that she be able to make referrals. Thank you.

Chair Furfaro: I just want to add again to that comment, one more time, and this was quoted in The Garden Island, as Mr. Jake Delaplane indicated as I watched the hearing. First Deputy Prosecutor, Jake Delaplane said, “O.P.A. supports Teen Court and is fully committed to ensure the program goes forward,” and I think that is where we are at and perhaps at a good place right now. Yes, Mr. Rapozo?

Mr. Rapozo: Thank you. You know, I want to clarify, because I think Mr. Mickens did not mention that the O.Y.S. Director, and I think we all got the email from Mr. Lum Lee saying that pursuing the referrals may be a violation of the procurement laws. So let us just look at the thing as a total picture and not just excerpts of it. The other thing that was made very clear by O.P.A. was that Teen Court in addition to what you just read, Mr. Chair, that it was quite obvious and it was openly stated that the O.P.A. supported Teen Court. But it was also clearly stated that the Teen Court and O.P.A. serve different segments of the youth population. It was clear. I think that was stated many, many times. So I think to infer that O.P.A. might cut referrals to Teen Court and go to Keiki P.O.H.A.K.U., I think it was clearly stated by numerous members of the O.P.A., that first-time offenders go to Teen Court and everyone else would go to Keiki P.O.H.A.K.U. So I think it is clear that we keep the record, especially on this body, this seven (7) member body, that we share all of what was stated and not just the little experts that really misguide or mislead the public. I think it was clearly stated numerous times. Thank you, Mr. Chair.

Chair Furfaro: Okay. So that summary is closed and what we really need to be done here is that we need to be making Teen Court referrals to

Hale 'Ōpio and I saw that in the commentary and in the video. So any further dialogue? If not, I would like to move to approve this.

The motion to approve Committee Reports CR-PSE 2012-09 and CR-PSE 2012-10 was then put, and unanimously carried.

BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2454) – AN ORDINANCE AMENDING ORDINANCE NO. B-2012-737, AS AMENDED, RELATING TO THE CAPITAL BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2012 THROUGH JUNE 30, 2013, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND – CIP (FEMA Reimbursement)

Chair Furfaro: Earlier, you heard me give praise to the Engineering Division, Department of Public Works and I do want to say that \$2.5 million on the original assessments for Pu'u Nani Street, Kahilihola Road, Pu'u Pilo Road, those items and documentations have now been submitted and we did qualify for the 75% reimbursement. Thank you to Larry and Lyle. This needs to go to the Committee of the Whole. I need a motion and a date for November 28.

Mr. Kualii moved for passage of Proposed Draft Bill No. 2454 on first reading, that it be ordered to print, that a schedule for Public Hearing thereon be scheduled for November 28, 2012, and that it thereafter be referred to the Committee of the Whole, seconded by Mr. Chang, and carried by the following vote:

| | |
|--|----------|
| FOR PASSAGE: Chang, Kualii, Nakamura, Rapozo, Yukimura | TOTAL-6, |
| Furfaro | |
| AGAINST PASSAGE: None | TOTAL-0, |
| EXCUSED & NOT VOTING: Bynum | TOTAL-1. |

Chair Furfaro: Okay. Hold our place at item two (2) for Bills for First Reading. I see Mr. Jung is here. Ian, may we ask you to come up and we will go back to C 2012-416.

There being no objections, the rules were suspended.

IAN JUNG, Deputy County Attorney: Good morning, Chair, Councilmembers, for the record, Deputy County Attorney, Ian Jung. In the submittal, I attached a 2008 Resolution as well as a map of the subdivision, as well as the Exchange Deed, the Legal Document up for decision-making today? Would you like to see the map up?

Chair Furfaro: Let me bring you up-to-date. There were questions from Mr. Rapozo and asked for your presence to be here. And perhaps we can be...we have all looked at the map. And perhaps we can be more targeted giving him the floor. So, Mr. Rapozo, your questions for the County Attorney?

Mr. Rapozo: Thank you. And thank you, Ian, for coming over. My memory is not as good as it used to be. Could you give us an overview, the reason for the exchange?

Mr. Jung: The reason—where I came in on this picture is reviewing the Legal Document itself, the Exchange Deed; the actual transaction that initiated this process was a result of this 2008 Resolution, which depicted exactly what should happen to effectuate where we are now. The first step was the Resolution to look at the acquisition of land through the Exchange Deed. The next step would move it through subdivision, and carve out and consolidate and re-subdivide the subject lot and then the last step would be to effectuate the contents of the Resolution by doing this Exchange Deed so we could get these new lots assigned to their proper owners. So really what happens was, that you took the County Right-of-Way, and on a 1:1 exchange, which is about 3-quarters of an acre, they are moving to align that old lot to Hauiki Road, adjacent Hauiki Road. In conjunction with the Exchange Deed, there is a road widening reserve and I think some of you are familiar with the road widening reserve and (Department of Public Works) D.P.W. wants to have a portion of a road reserved for future expansion. It will be reserved along the strip. If you look at the map, you will see the dotted line where we have the road widening reserve and the new Lot, Lot 1-C, will facilitate an expansion of road by way of fee-lot so it will be sort of in conjunction with that road widening. I do not know if you have been up to Hauiki Road, but it is off Olohena up in Kawaihao District. The road takes a bank and goes right. I think what they want to do is to curve out that corner in the future, obviously, and do some kind of easier curve. I think that is discussed in the Resolution. But Max Graham is here. He was the Attorney who worked on the project well before I was with the County. So if you have questions, he could certainly chime in.

Mr. Rapozo: If he has no objection, because I am still confused.
I apologize.

MAX GRAHAM, Representing the applicants: Good morning. I am Max Graham representing the applicants in this matter, the Ibbs. And the question?

Mr. Rapozo: First of all, I read the Resolution and I do not understand it I guess. I am trying to figure out why was an Exchange Deed required? And I guess it sounds like we needed some space for road widening. Is it like a condemnation? Is that what this is?

Mr. Graham: If you look at the map, you have...you see on the map Lot 1-C and in the dotted line, Portion 2 of old railroad right-of-way? There was this old railway right-of-way that was actually part of the initial lot that all of these other lots are apportions of. It was Lot 98 of the Kapa'a Homestead second series. All these lots in that area are part of the original Kapa'a Homestead second series and there was a Land Patent Grant in 1917 for Lot 98 and then subsequently about 3 years later in 1920, the then Territory of Hawai'i asked the owner of Lot 98 to give the State a railroad right-of-way through that area. And there was a separate grant back to the State of this railroad right-of-way. If you look back to your map, you can see Portion 2 is located on this Lot 1-B1, but the remaining portions continue through the adjacent property. It was all part of this Lot 98, and the adjacent Lot 99. And for some reason the State at that time wanted to have a railroad right-of-way in this area.

Mr. Rapozo: Okay.

Chair Furfaro: Max, did I have them put the right map up?

Mr. Graham: That is the right map. So the old right-of-way is in yellow. You can see that?

Mr. Rapozo: Yes.

Mr. Graham: Eventually, I do not know if it was ever actually used or not for a railroad. I do not know if the plantations ever used it or anyone did. There does not appear to be any remaining within that right-of-way. In 1997, the State no longer needed the right-of-way so the State deeded the property to the County. So the County owned that strip of land there and the Ibbs owned that land above the yellow strip and a little triangle of land below the yellow strip adjacent to Hauiki Road. So the little strip of yellow...I mean the little triangle of land below the strip, the railroad right-of-way, was not particularly useful to the Ibbs, stranded as it was. And the railroad right-of-way was not particularly useful to the County, because it does not lead anywhere. So an exchange was proposed and the exchange was basically square foot for square foot. The railroad right-of-way is 0.071 acres. And the new Lot 1-C, which is going to the County is 0.071 acres. So essentially the right-of-way was relocated over adjacent to Ha'ikū Road, apparently to aid in creating a curvature of Hauiki Road in that area where you can see it curves around. That will go to the County. In addition, the final subdivision map has a 13 foot wide road widening reserve that runs within Lot 1-b1 all the way across to the dotted line on the right side of the map there along Hauiki Road. The final map has, in addition to Lot 1-C, that the County will be getting is along that the Lot 1-B1 shown there and the adjacent lot to the right, a 13 foot right-of-way.

So Lot 1-C is here. This shows the 13 foot wide road widening reserve that will run along the entire frontage of Hauiki Road. Hauiki Road can be further expanded another 13 feet along this entire area. The County will own this property here and if the County needs or wants to acquire the other land here in future if it needs to create a better curvature of Hauiki Road. It seems to work for everybody. And it allows land which is not particularly useful right now, to be more useful to both parties.

Chair Furfaro: Thank you, Max. This has been on the agenda for quite a long time.

Mr. Graham: Yes, it has. Part of the reason it has been in process for a long time is because the County needed the applicant to prepare an Environmental Impact Assessment and that was done. After the Resolution was passed, the Office of Hawaiian Affairs asked the County not to act on this, until it resolved issues concerned ceded lands and eventually the Office of Hawaiian Affairs determined that this was a remnant property that could be transferred. So it no longer objected. That took about a year and after that, we needed to go through this consolidation resubdivision process. So this is the end of a rather long journey.

Chair Furfaro: I think this goes back to when I was Vice Chair of the Planning Committee. So that was a few years ago. Mr. Rapozo, you have the floor.

Mr. Rapozo: So Max, with this exchange, does it increase the density of the parcel?

Mr. Graham: There was density on the little piece and that density in effect has been transferred over to Lot 1-B1, but it does not increase the total density that otherwise exists.

Mr. Rapozo: I mean prior to the exchange—which part had...on the bottom part of that yellow bar you had density there. That was not a very big lot, right?

Mr. Graham: Not a very big lot. So it does make it more useful. There would have been density in this area here.

Mr. Rapozo: How big is that area?

Mr. Graham: That area that was formerly parcel 1-B, 2,781 square feet.

Mr. Rapozo: That lot could not have had density at 2,700 square feet?

Mr. Graham: It had a density for a small house.

Mr. Rapozo: With the exchange what happens now? That density gets transferred?

Mr. Graham: That same density, basically, you can place a house on this larger lot here. It would allow for a larger farm dwelling unit. It makes this lot more usable. But again, there was density here and it just gets moved over here.

Mr. Rapozo: Was there density prior to the upper part?

Mr. Graham: No.

Mr. Rapozo: So I see if not for the exchange, the owner could only build a little house?

Mr. Graham: Correct.

Mr. Rapozo: And now with the exchange, they can build a large house. This is Ag. land?

Mr. Graham: This is all Ag. land.

Mr. Rapozo: What is the intention of the owner? To build just a single-family residential unit?

Mr. Graham: Yes. That is all they can do with that.

Mr. Rapozo: Well, legally I know. Is there any intention other than that?

Mr. Graham: No. There is no intention other than to use it as a farm dwelling unit subject to the agricultural subdivision agreement that we entered into the County result of the subdivision. That requires active agricultural uses.

Mr. Rapozo: Okay. That is all I have, Mr. Chair.

Chair Furfaro: There is a question from Councilmember Nakamura.

Ms. Nakamura: Thank you, Max and Ian. So easement W-1 is what the County would...is that the reserve for the road widening?

Mr. Jung: The road widening reserves are usually done through documentation, not necessarily easements. They are reservations of the property, which in effect becomes like an easement because there are two terms you use, accepting and reserving. More commonly, you would see reservations of road widening reserves in A.D.U. type of applications. Because this is Ag. land, there is no longer A.D.U.'s for lots created, based on A.D.U. laws. For this case, I think what they did was they tied the road widening reserve into the Exchange Deed itself, so we could have that ability to reserve that area, the 13 foot strip for future...because the Kūlana Project is up the road from that, in case the road needed to be widened in the future. Ordinarily, it would be through a road widening reserve agreement tied to a separate application but because it is an Exchange Deed, it was tied into this specific deed document. It is just like anything else that would get recorded.

Mr. Graham: Easement W-1 is also an easement for water line purposes in favor of the Department of Water. Overlaid on that will be the road setback.

Ms. Nakamura: Is that road widening of Hauiki Road on the six-year C.I.P. or is it something that would be nice to have? But is it something actually being planned?

Mr. Jung: I do not know if it is on the six-year C.I.P. We could certainly check but it is usually by function of increase in density and although there is no increase of density, just shifting around based on the exchange, then the road widening reserve would be tacked on so we could—because there is a higher level of impact, then in case the County wanted to widen the road, it has that ability. So it is put on reserve in case the County wanted to do so.

Ms. Nakamura: So the density that would be added is further down the road?

Mr. Jung: Yes, if any other properties are subdivided. It is kind of like a future planning tool where if properties are subdivided and the road needs to be widened, you could come in and utilize the road widening reserve and if we need to condemn strips of land to widen the road, it works in tandem, where we have the reservation already listed on property sort of like an exaction, where we are reserving the strip of land. And for the portions that do not have an attached road widening reserve we will have to go in and do road widening or at least ask for a strip of land to be dedicated.

Ms. Nakamura: Thank you.

Ms. Yukimura: Is it not a regular practice, when there are subdivisions made along public roads that reservations are kept...are done?

Mr. Jung: Yes. Well, this is a consolidation resubdivision, so there are no new lots technically being created.

Ms. Yukimura: Right. I query why there was not a reservation done when the subdivision was originally done? Or why somebody did not even think of exchanging the two (2) properties as part of the subdivision? But either way, I mean...even though we do not have specific plans in the near future, do we not just generally take reservations along roads? Somehow we missed that parcel.

Mr. Jung: I do not have the subdivision map. So I do not know when the original subdivision was done following that. Territorial Homesteading Act, what they did was they carved up lots. And this one was along Oloheua Road, as Max mentioned this is the second series. When they created Oloheua Road, it was a Territorial Homesteading Road which serviced those land patent lots that were created and the larger lots were done in the 1920's. Well before, they were later carved up into smaller lots, most likely before 1972, where you have subdivisions standards imported through the C.Z.O. It was probably carved up prior to 1972 and then following that, it would be locked up by the one-time subdivision restriction.

Ms. Yukimura: Thank you.

Chair Furfaro: Am I correct that that road at Hauiki is the minimal during the Territorial term, is only 18-feet wide? Am I correct?

Mr. Jung: Unfortunately, I do not know the road standards.

Chair Furfaro: If there are any more questions, because we have to take a captioning break. Any more questions? Thank you very much. We are going to take a caption break for ten (10) minutes and then come back to this and vote on it.

There being no objections, the meeting was recessed at 11:35 a.m.

There meeting reconvened at 11:48 a.m., and proceeded as follows:

Chair Furfaro: Okay members we are back in session. Anyone wishing to speak on this item? If not, I am going to call the meeting back to order. members? Any further conversation?

There being no objections, the meeting was called back to order, and proceeded as follows:

Mr. Rapozo: Mr. Chair, just to thank Max and Ian for the update. I appreciate that.

Chair Furfaro: If not, this will be a recall vote, please.

The motion to approve C 2012-416 was then put, and carried by the following vote:

| | |
|--|----------|
| FOR APPROVAL: Chang, Nakamura, Rapozo, Yukimura, Furfaro | TOTAL-5, |
| AGAINST APPROVAL: None | TOTAL-0, |
| EXCUSED & NOT VOTING: Bynum | TOTAL-1, |

SILENT: Kualii

TOTAL-1.

Proposed Draft Bill (No. 2455) – AN ORDINANCE AMENDING ORDINANCE NO. B-2012-736, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2012 THROUGH JUNE 30, 2013, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (FEMA Reimbursement): Mr. Rapozo moved for passage of Proposed Draft Bill No. 2455 on first reading, that it be ordered to print, that a Public Hearing thereon be scheduled for November 28, 2012, and that it thereafter be referred to the Committee of the Whole, seconded by Mr. Chang, and carried by the following vote:

| | |
|--|----------|
| FOR PASSAGE: Chang, Kualii, Nakamura, Rapozo, Yukimura, Furfaro | TOTAL-6, |
| AGAINST PASSAGE: None | TOTAL-0, |
| EXCUSED & NOT VOTING: Bynum | TOTAL-1. |

Proposed Draft Bill (No. 2456) – AN ORDINANCE AMENDING ORDINANCE NO. B-2012-736, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2012 THROUGH JUNE 30, 2013, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (\$31,000.00 Teen Court Grant): Mr. Rapozo moved for passage of Proposed Draft Bill No. 2455 on first reading, that it be ordered to print, that a Public Hearing thereon be scheduled for November 28, 2012, and that it thereafter be referred to the Committee of the Whole, seconded by Ms. Yukimura.

Mr. Rapozo: Mr. Chair?

Chair Furfaro: Yes?

Mr. Rapozo: I realize it is first reading. I just want to ask if we could send over a communication. I understand that the fund it is coming from is the Kauai Police Department and I would like to get some...a response from the Chief. I do not see the connection. I would assume that if the Mayor's Office is requesting a transfer, that in fact, those funds should come from the Mayor's Office surplus and not the Police Department.

Chair Furfaro: Okay. Did we get my summary piece yet? No? Remember last week, I was absent to review the O.P.A. funding. And I have had it being reviewed by Ernie Barreira. The memorandum that you requested, is it already prepared to go over to the Mayor and Shaylene Iseri-Carvalho. So this Public Hearing is scheduled for the 28th of November?

Mr. Rapozo: Yes.

Chair Furfaro: Okay. Vice Chair Yukimura.

Ms. Yukimura: I will be supporting this on First Reading. Between First Reading and Second Reading, I do want to check with the Office of Youth Services and the Mayor's Office because if there are unused, uncommitted Federal moneys that can be used for Teen Court. I would prefer to see that used. One, because we do not want that money to go to waste and two, because there are other

potential uses possibly for these County moneys, so I do plan do some research in between the two (2) readings.

Chair Furfaro: I can certainly accept that and I do want to let you know that as I have gone through this money being available for a grant. If it is not used because there are other funds available, it would obviously fall into the surplus account for the year-end and it is like grant money. But I do want to tell you in studying the reviews from last week, I want you all to know and I know Mr. Rapozo asked this question; I am evaluating the O.P.E.B. accounts with the exception of Police and Fire to show what kind of adjustment was actually made in July. So the budget had been done, and I am looking at the year-end statement so far that shows us \$8.2 million short in revenue. But remember, we have not seen the August final adjustments. So this \$31,000.00, I have earmarked coming out of the O.P.E.B. savings, but I agree with you. If other sources are available, then we would go there.

Ms. Yukimura: Thank you.

Chair Furfaro: Okay. Yes, Mr. Rapozo.

Mr. Rapozo: I would agree and this is my concern that, in fact, the money is transferred from O.P.E.B. Police to the Mayor's Office and we do find funds elsewhere, then basically what we have effectively done is reduce the department budget by \$31,000.00 and increased the Mayor's budget by \$31,000.00 and that is my concern.

Chair Furfaro: I think I am recognizing that, doing the other pieces and trying to find out exactly where we are at and if I could refresh everybody, June 30 ended the year for us. But in August, they have what they call the 13th month. Where they can book all of the final pieces and we have not gotten that far yet. So I am just looking at estimates. I hear you both loud and clear. On that note, can I ask for a vote, please.

The motion for passage of Proposed Draft Bill No. 2456 on first reading was then put, and carried by the following vote:

| | |
|---|----------|
| FOR PASSAGE: Chang, Kualii, Nakamura, Rapozo, Yukimura, | TOTAL-6, |
| Furfaro | |
| AGAINST PASSAGE: None | TOTAL-0, |
| EXCUSED & NOT VOTING: Bynum | TOTAL-1. |

Proposed Draft Bill (No. 2457) - A BILL FOR AN ORDINANCE AMENDING CHAPTER 6, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO GENERAL PROVISIONS RELATING TO FINANCE, ESTABLISHING A RESERVE FUND AND A RESERVE FUND POLICY: Mr. Kualii moved for passage of Proposed Draft Bill No. 2455 on first reading, that it be ordered to print, that a Public Hearing thereon be scheduled for November 28, 2012, and that it thereafter be referred to the Committee of the Whole, seconded by Mr. Chang.

Chair Furfaro: Thank you. Before we take a vote on this, I want to share with you folks what this Bill proposes, and we will put up a short PowerPoint so that you can, in fact, follow. In November of 2011, if you recall, I introduced a Reserve Fund. I introduced the Reserve Fund for the purpose of identifying a fund that is there during these difficult economic times. I broke it down in the

Resolution, which is on this PowerPoint piece, so that going forward, if we end up with savings in the years from operations, we can then make some decisions what we do with that Reserve. But the Reserve account stays as an Ordinance in our Treasury. It has been a year and I wanted to make sure that this Bill is in front of us before we pushed up all of the new calendar dates with hearing from the revenue cycle in January and so forth. So what you have up here on the board is what I am proposing. As the Reserve Fund can only be accessed by an Ordinance from the Mayor's Office. Fifty percent (50%) of that Reserve Fund can be used if we have a cash flow problem from some catastrophic issue or working capital for a special project. Twenty-five percent (25%) can be used for economic fluctuations and if any reason we have to stabilize the budget. Fifteen percent (15%) of that Reserve can be used for extreme events, weather, disaster, and so forth. Items that Civil Defense, as you know, they can have access up to \$50,000.00 for emergency funds, but in an event that we have something that occurs, and we need to do some immediate repairs. Fifteen percent (15%) of that Reserve can be used for initial disaster responses until we see cash from F.E.M.A. Like what we just went through with last three (3) roads up in Wailua and got reimbursed for \$2.5 million and then ten percent can be used if we have a non-insured loss. That money stays in the Reserve. The blue piece indicates that when we come to the end of this year, we have got the reserve set up on the side, and we come to the end of the year and there is a surplus, and the way we are tracking this right now, although we are \$8.2 million short in revenue, the Administration has not reconciled expenses of almost \$12.5 million. So we are going to end up this year with a surplus. That is my thinking right now. None of us have seen the reconciliation of the year-end, which comes up in August and then submitted to us. But if we do, then that money, the Reserve stays intact, especially during these tough economic times with the State, especially with the Feds cutting back on programs. That money can then be used to accelerate Capital Improvement Projects, can reduce our debt as we have bonds that we pay, can be reduced for Economic Development Programs such as Comprehensive Economic Development Strategy (C.E.D.S.), because all we did was fund the strategies, or it can be used as tax relief and credits. But we do it in a way, as this chart lays out, we do it in a way that we keep a Reserve intact. Please remember, the State of Hawai'i has used all of the money in the Hurricane Fund. The State of Hawai'i has used all of the money in the Rainy-Day Fund. It is important for us to be in a position that if we have a cash flow issue, a stabilization need, a disaster that we needed additional funding that, in fact, we finally take my Resolution and make it a Bill. That is what this is all about. I just wanted to revisit it one more time, and I want to thank you all for last November, when you voted unanimously to on my Resolution to establish this Reserve. So we can go back with the lights. I need a motion for this, for Public Hearing.

Ms. Yukimura: So are these items under the Reserve Fund in the year-end surplus, are they defined in the Bill?

Chair Furfaro: Everything you find under the green tag under surplus is defined in the Bill, but also defined in the Resolution.

Ms. Yukimura: Okay. Because I just have a concern that we might possibly add some Housing Projects.

Chair Furfaro: What is in the blue, we can do whatever we want with it.

Ms. Yukimura: Okay.

Chair Furfaro: If an emergency is determined, we have a shelter need, housing needs; it can be visited, too. But the most important thing is that the Reserve Fund can only be addressed by the Administration by submitting an Ordinance to us so that we can have a full discussion at the Council.

Ms. Yukimura: Thank you.

The motion for passage of Proposed Draft Bill No. 2457 was then put, and carried by the following vote:

| | |
|---|----------|
| FOR PASSAGE: Chang, Kualii, Nakamura, Rapozo, Yukimura, Furfaro | TOTAL-6, |
| AGAINST PASSAGE: None | TOTAL-0, |
| EXCUSED & NOT VOTING: Bynum | TOTAL-1. |

BILLS FOR SECOND READING:

Bill No. 2446, Draft 1 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 17A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO BUS FARES

Chair Furfaro: We are on the Bus Fares, discussion? And if it is okay to the members I would like it turn the floor over to Vice Chair Yukimura.

Ms. Yukimura moved to approve Bill No. 2446, seconded by Mr. Chang.

Chair Furfaro, the presiding officer, relinquished Chairmanship to Ms. Yukimura.

Ms. Yukimura: Is there any discussion? If not, we will have a roll call vote.

Mr. Rapozo: Is the Chair going to vote?

Ms. Yukimura: Apparently not.

Mr. Rapozo: I have a comment. It is not going to be long. I just want to say any position has not changed since the Committee Meeting. I will not be supporting the Bill because I think we should afford that opportunity to the students to ride for free in fact of the light that we allow our County Employees the free bus service. Thank you.

Ms. Yukimura: Thank you. Any further discussion? Chair.

Chair Furfaro: I will be supporting this, but I want to reiterate what I had understood the County's subsidy for the County employee as being a pilot program and in fact, was to give them an opportunity to feel how alternative transportation works for them and to encourage the fact that they can give testimony on their service and eventually when the subsidy phases out, will try to increase ridership. But I will be supporting this.

Ms. Yukimura: Thank you. Is there any other discussion? If not, I want to just say that the...I think this Bill is very important to provide affordable transportation, alternatives for the students of Kaua'i Community College, while still maintaining the sustainability of the system. I think it is an issue that County Employees are riding for free and I heard our Transportation Agency say that they are relooking at ways to restructure it. I also want to say that there is an option for the County to look at including it in our Flexi Benefits Program so that people can pay for bus passes, using pre-tax moneys. I believe the Administration will be look at all of those alternatives. I do not think we should delay this new piece, innovative piece for Employer Bulk Purchases because I think this will give some relief to students. And I look forward to proposals from the Administration to address the issue of free County bus service. Any further discussion? Councilmember Chang.

Ms. Chang: I just want to add that I did have an opportunity to speak with Celia yesterday and there is discussion right now about how we can do what is fair. Just as a little background, the ridership was introduced by our late Mayor, Bryan J. Baptiste. Many of those County workers; those that have elected to use the service, has been blessed to be able to use the Transportation for over five (5) years. I do believe it is fair and they are in discussion as we speak. So I think that will be fair for everyone around.

Ms. Yukimura: It will be fair to transition to another system.

Mr. Chang: Yes, thank you.

Ms. Yukimura: Any other comments? If not, roll call vote, please.

The motion to approve Bill No. 2446 was then put, and carried by the following vote:

| | |
|---|----------|
| FOR APPROVAL: Chang, Kuali'i, Nakamura, Yukimura, Furfaro | TOTAL-5, |
| AGAINST APPROVAL: Rapozo | TOTAL-1, |
| EXCUSED & NOT VOTING: Bynum | TOTAL-1. |

Ms. Yukimura returned Chairmanship duties to Chair Furfaro.

Chair Furfaro: I want to go into Executive Session now and take the Civil Defense items. Then, I will plan to break for lunch at 12:30 and come back at 1:30 and take Public Hearings and then go back into Executive Session. Would you read all five (5) and we will handle Civil Defense first. Thank you.

There being no objections, the rules were suspended.

ALFRED CASTILLO, JR., County Attorney: Council Chair,
Councilmembers, good afternoon. Al Castillo, County Attorney. I will read the Executive Session items for today.

EXECUTIVE SESSION:

ES-571 Pursuant to Hawai'i Revised Statutes Sections 92-4, 92-5(a)(4), and Kaua'i County Charter section 3.07(e), the Office of the County Attorney, on behalf of the Council, requests an executive session to allow the Council to consult with the County Attorney regarding how the Kaua'i Police Department conducts its operations involving surveillance helicopters, and related matters. This briefing and

consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-579 Pursuant to Hawai'i Revised Statutes Sections 92-4, 92-5(a)(4) and (6), and Kaua'i County Charter section 3.07(e), the Office of the County Attorney, on behalf of the Council, requests an executive session to allow the Council to consult with the County Attorney regarding C 2012-385, Communication (08/28/2012) from the Civil Defense Manager, recommending Council approval for the second amendment, five (5) year lease agreement between the County of Kaua'i and Bank of Hawai'i, Trustee of the Kukuilono Park Trust Estate, which extends the lease of the County's 800 MHz radio site located at Kukuilono Park in Kalāheo, Kaua'i, Hawai'i for emergency radio communications for the County of Kaua'i, for the five (5) year period commencing July 1, 2012, and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-580 Pursuant to Hawai'i Revised Statutes Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(e), the Office of the County Attorney, on behalf of the Council, requests an executive session for Council to consult with the County Attorney regarding the Council's public release of the County Attorney's written legal opinion dated October 8, 2012, regarding the authority of the Office of the Prosecuting Attorney to offer a diversion program, and related matters. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities and/or liabilities of the Council and the County as they relate to this agenda item.

ES-581 Pursuant to Hawai'i Revised Statutes Sections 92-4 and 92-5(a)(4) and (8), and Kaua'i County Charter Section 3.07(e), the purpose of this executive session is to provide the Council with a briefing on County of Kaua'i vs. Michael Guard Sheehan, et al., Civil No. 11-1-0098 (Condemnation), Fifth Circuit Court, and related matters. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities and/or liabilities of the Council and the County as they relate to this agenda item.

ES-582 Pursuant to Hawai'i Revised Statutes Sections 92-4, 92-5(a)(4), and Section 3.07(e) of the Kaua'i County Charter, the Office of the County Attorney requests an executive session with the Council to provide the Council with a briefing on Kaua'i Police Commission, et al. vs. Bernard P. Carvalho, Jr., in his official capacity as the Mayor of the County of Kaua'i, Civil No. 12-1-0229 (Fifth Circuit Court), and related matters. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities and/or liabilities of the Council and the County as they relate to this agenda item.

Mr. Rapozo moved to convene in Executive Session for ES-571, ES-579, ES-580, ES-581, and ES-582, seconded by Mr. Chang, and carried by the following vote:

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|---|----------|
| FOR EXECUTIVE SESSION: Chang, Kualii, Nakamura, Rapozo, | TOTAL-6, |
| Yukimura, Furfaro | |
| AGAINST EXECUTIVE SESSION: None | TOTAL-0, |
| EXCUSED & NOT VOTING: Bynum | TOTAL-1. |

Chair Furfaro: Thank you very much. Let us gather in the Executive Chambers.

There being no objections, the meeting was recessed at 12:15 p.m.

The meeting reconvened at 4:23 p.m., and proceeded as follows:

COMMUNICATIONS:

C 2012-414 Request (10/17/2012) from the Office of the County Attorney for authorization to expend up to \$75,000 for special counsel's continued services provided in County of Kaua'i vs. Michael Guard Sheehan, et al., Civil No. 11-1-0098 (Condemnation), Fifth Circuit Court, and related matters: Ms. Yukimura moved to approve C 2012-414, seconded by Mr. Chang.

Chair Furfaro: On that note, I would like to remind the County Attorney by request, I would like to have some parameters set for the definition and scope of this money. Any further discussion? If not roll call, please.

The motion to approve C 2012-414 was then put, and carried by the following vote:

| | |
|---|----------|
| FOR APPROVAL: Chang, Kuali'i, Nakamura, Rapozo, Yukimura, | TOTAL-6, |
| Furfaro | |
| AGAINST APPROVAL: None | TOTAL-0, |
| EXCUSED & NOT VOTING: Bynum | TOTAL-1. |

Chair Furfaro: Let us so note for the record, 6-0 vote with Mr. Bynum with an excused absence. Next item, please.

C 2012-415 Request (10/17/2012) from the Office of the County Attorney for authorization to expend funds up to \$15,000.00 for special counsel's continued services provided in Kaua'i Police Commission, et al. vs. Bernard P. Carvalho, Jr., in his official capacity as the Mayor of the County of Kaua'i, Civil No. 12-1-0229 (Fifth Circuit Court), and related matters: Mr. Chang moved to approve C 2012-415, seconded by Mr. Rapozo, and carried by the following vote:

| | |
|---|----------|
| FOR APPROVAL: Chang, Kuali'i, Nakamura, Rapozo, Yukimura, | TOTAL-6, |
| Furfaro | |
| AGAINST APPROVAL: None | TOTAL-0, |
| EXCUSED & NOT VOTING: Bynum | TOTAL-1. |

Chair Furfaro: Let us so note for the record, 6-0 vote with Mr. Bynum with an excused absence. Next item.

LEGAL DOCUMENT:

C 2012-385 Communication (08/28/2012) from the Civil Defense Manager, recommending Council approval for the second amendment, five (5) year lease agreement between the County of Kaua'i and Bank of Hawai'i, Trustee of the Kukuilono Park Trust Estate, which extends the lease of the County's 800 MHz radio site located at Kukuilono Park in Kalāheo, Kaua'i, Hawai'i, for emergency radio communications for the County of Kaua'i, which license fee will be paid in

incremental increases of 3 percent (3%) each year for the five (5) year period commencing July 1, 2012.

- Second Amendment of License Agreement

Chair Furfaro: Members, I think we would like to defer this for two (2) weeks. That is the motion I am looking for.

Mr. Kualii moved to defer C 2012-385, seconded by Ms. Yukimura, and carried by the following vote:

| | |
|--|----------|
| FOR APPROVAL: Chang, Kualii, Nakamura, Rapozo, Yukimura, Furfaro | TOTAL-6, |
| AGAINST APPROVAL: None | TOTAL-0, |
| EXCUSED & NOT VOTING: Bynum | TOTAL-1. |

Chair Furfaro: Let the record show we have 6-0 on the deferral and Mr. Bynum is on an excused absence. Before we go into Executive Session, on the last pending item today, I would like to give the floor to Councilmember KipuKai for a moment of personal privilege.

Mr. Kualii: Thank you, Mr. Chair. Again, I would like to state that it is National Bullying Prevention Awareness month and I wanted to thank Councilmember Rapozo for co-sponsoring the Resolution back in April with me and for all of the Council's support. I wanted to announce next Tuesday night at 6:00 p.m. at the U.P.W. Hall, I am co-hosting a community anti-bullying discussion with the Kauai Keiki Coalition. This group of concerned parents and former students are basically looking for County support in the future as they work with Senator Suzanne Chun-Oakland from the State Legislature on amending Hawaii Revised Statutes, Chapter 19 and the anti-bullying Legislation there.

Chair Furfaro: Thank you for that moment of personal notice. And also, if there is anything that the Council can do subsequent to the outcome of that meeting, we would be glad to entertain agenda time. Mr. Chang.

Mr. Chang: Councilmember Kualii, where is the U.P.W. Hall?

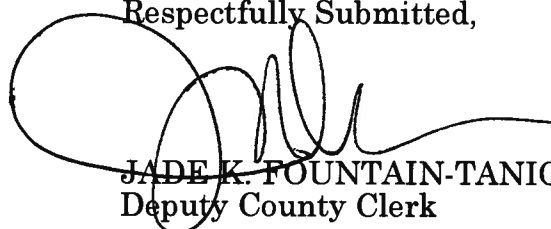
Mr. Kualii: It is right here on Rice Street, 4211 next to the Fire Station.

Mr. Chang: Okay. Thank you.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 4:27 p.m.

Respectfully Submitted,



JADE K. FOUNTAIN-TANIGAWA
Deputy County Clerk

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